IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3351 of 2005

Between:

Sri Kanyaka Parameswari Vissamsetty Venkata Ratnam Hindu High Schools Committee, (S.K.P.V.V.R.H.H.Schools), Vijayawada, Rep by its General Secretary and Correspondent, Sri Gopisetty Mallaiah, S/o. Venkata Subba Rao, aged57 years R/o. Canal Road, Vijayawada, Krishna District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep by its Secretary, School Education Department, Secretariat, Hyderabad.
2 The Commissioner and Director of School Education, Kakinada.
3 The Regional Joint Director of School Education, Kakinada.
4 The District Educational Officer, Krishna District, Machilipatnam.
5 The Departmental Nominee and Deputy Educational Officer, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ specially writ of mandamus declare the action of the Respondents in not taking follow-up action for issuance of appointment orders to the selected candidates as per selection made by the duly constituted Staff Selection Committee to the aided non-teaching staff posts on 14-6-2004 as illegal, arbitrary and unjust and consequently direct the Respondents 1 to 3 to pass appropriate orders on the recommendation proceedings Rc.No.54/D4/04 dt. 12-7-2004 and 4-8-2004 of Respondent No. 4 for approval of selection candidates to the aided non-teaching staff posts i.e. Record Assistants and Attenders forthwith.

Counsel for the Petitioner: MR.RAJ KUMAR RUDRA

Counsel for the Respondents: GP FOR EDUCATION

This Court at the admission stage made the following :

O R D E R:

This writ petition is filed seeking to declare the alleged inaction on the part of the respondents in taking the follow up action for issuance of appointment orders for the selected candidates as per the selection made by the duly constituted Staff Selection Committee to the aided non-teaching staff posts in the schools run by the petitioner as arbitrary and illegal.

The petitioner is running three High Schools at Vijayawada. Out of the total 24 Non-teaching staff, eight posts fell vacant in the said schools and consequently applications were invited by publishing a notification in the newspapers on 22-01-2004. In pursuance of the requests made by the petitioner to send the list of subject experts to constitute the Staff Selection Committee, the fourth respondent by proceedings dated 27-05-2004 sent the list of subject experts and accordingly, the Staff Selection Committee was constituted with six persons in terms of G.O.Ms.No.1 dated 01-01-1994. Thereafter, the written test was conducted on 14-06-2004 and the interviews were also conducted. The merit lists were prepared and were exhibited in the notice Board. The fourth respondent vide proceedings dated 12-07-2004 recommended the third respondent for approval of the selection of the selected candidates by the Staff Selection Committee. Thereafter, the third respondent by proceedings dated

26-07-2004 has called for certain particulars from the fourth respondent and the same were submitted. It is further stated that almost all the formalities have been completed except the necessary approval from the Government. Since no such approval is granted, this writ petition is filed seeking the above relief.

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

The learned Government Pleader contends that in view of the general ban imposed under the Memo dated 20-10-2004, no new posts of grant in aid can be created and no existing vacancies can be filled up.

However, the learned counsel for the petitioner states that since the vacancies in question arose long back and the selection process has already been completed, the Memo dated 20-10-2004 does not attract to the case on hand. In support of his contention, he placed reliance upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court dealt with an identical issue and having considered the scope of the Memo dated 20-10-2004 held that in the Memo though it is stated that no new posts of grant in aid would be created and the existing vacancies would also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the said Memo. The learned Government Pleader does not dispute the said legal position.

On a perusal of the said order, I am of the view that the ratio laid down in the said decision squarely applies to the case on hand since the entire selection process was completed long prior to the general ban imposed under the Memo dated 20-10-2004.

The writ petition is accordingly disposed of with a direction to the respondents to consider the request of the petitioner-committee to

permit it to take further steps to fill up the vacancies in question notwithstanding the ban imposed under the Memo dated 20-10-2004. No costs.

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(**G. ROHINI, J**)

Date: 24-02-2005

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To

1 The Government of Andhra Pradesh, Rep by its Secretary, School Education Department, Secretariat, Hyderabad.
2 The Commissioner and Director of School Education, Kakinada.
3 The Regional Joint Director of School Education, Kakinada.
4 The District Educational Officer, Krishna District, Machilipatnam.
5 The Departmental Nominee and Deputy Educational Officer, Vijayawada.

6 Two CCs to the Government Pleader for School Education, High Court of A.P., Hyderabad. (O.U.T.)

7 Two CD copies.